

Federal Communications Commission

§ 73.5006

application for a noncommercial educational station, as defined in 47 U.S.C. 397(6).

[63 FR 48629, Sept. 11, 1998, as amended at 64 FR 24526, May 7, 1999; 68 FR 26228, May 15, 2003]

§ 73.5003 Submission of full payments.

If a winning bidder fails to pay the balance of its winning bid in a lump sum by the applicable deadline as specified by the Commission, it will be allowed to make payment within ten (10) business days after the payment deadline, provided that it also pays a late fee equal to five (5) percent of the amount due. Broadcast construction permits and ITFS licenses will be granted by the Commission following the receipt of full payment.

[67 FR 45375, July 9, 2002]

§ 73.5004 [Reserved]

§ 73.5005 Filing of long-form applications.

(a) Within thirty (30) days following the close of bidding and notification to the winning bidders, each winning bidder must submit an appropriate long-form application (FCC Form 301, FCC Form 346, FCC Form 349 or FCC Form 330) for each construction permit or license for which it was the high bidder. Long-form applications filed by winning bidders shall include the exhibits required by § 1.2107(d) of this chapter (concerning any bidding consortia or joint bidding arrangements); § 1.2110(j) of this chapter (concerning designated entity status, if applicable); and § 1.2112 of this chapter (concerning disclosure of ownership and real party in interest information, and, if applicable, disclosure of gross revenue information for small business applicants).

(b) The long-form application should be submitted pursuant to the rules governing the service in which the applicant is a high bidder and according to the procedures for filing such applications set out by public notice. When electronic procedures become available for the submission of long-form applications, the Commission may require all winning bidders to file their long-form applications electronically.

(c) An applicant that fails to submit the required long-form application

under this section, and fails to establish good cause for any late-filed submission, shall be deemed to have defaulted and shall be subject to the payments set forth in 47 CFR 1.2104(g).

(d) An applicant whose short-form application, submitted pursuant to § 73.5002(b), was not mutually exclusive with any other short-form application in the same service, or whose short-form application was mutually exclusive only with one or more short-form applications for a noncommercial educational broadcast station, as described in 47 U.S.C. 397(6), shall submit an appropriate long-form application within thirty (30) days following release of a public notice identifying any such non-mutually exclusive applicants. The long-form application should be submitted pursuant to the rules governing the relevant service and according to any procedures for filing such applications set out by public notice. The long-form application filed by a non-mutually exclusive applicant need not contain the additional exhibits, identified in paragraph (a) of this section, required to be submitted with the long-form applications filed by winning bidders. When electronic procedures become available, the Commission may require any non-mutually exclusive applicants to file their long-form applications electronically.

[63 FR 48629, Sept. 11, 1998, as amended at 67 FR 45375, July 9, 2002; 68 FR 26229, May 15, 2003; 68 FR 43000, July 21, 2003]

§ 73.5006 Filing of petitions to deny against long-form applications.

(a) As set forth in 47 CFR 1.2108, petitions to deny may be filed against the long-form applications filed by winning bidders in broadcast service or ITFS auctions and against the long-form applications filed by applicants whose short-form applications were not mutually exclusive with any other applicant, or whose short-form applications were mutually exclusive only with one or more short-form applications for a noncommercial educational broadcast station, as described in 47 U.S.C. 397(6).

(b) Within ten (10) days following the issuance of a public notice announcing that a long-form application for an

AM, FM or television construction permit has been accepted for filing, petitions to deny that application may be filed. Within fifteen (15) days following the issuance of a public notice announcing that a long-form application for a low power television, television translator or FM translator construction permit or ITFS license has been accepted for filing, petitions to deny that application may be filed. Any such petitions must contain allegations of fact supported by affidavit of a person or persons with personal knowledge thereof.

(c) An applicant may file an opposition to any petition to deny, and the petitioner a reply to such opposition. Allegations of fact or denials thereof must be supported by affidavit of a person or persons with personal knowledge thereof. In the AM, FM and television broadcast services, the time for filing such oppositions shall be five (5) days from the filing date for petitions to deny, and the time for filing replies shall be five (5) days from the filing date for oppositions. In the low power television, television translator and FM translator broadcast services and in ITFS, the time for filing such oppositions shall be fifteen (15) days from the filing date for petitions to deny, and the time for filing replies shall be ten (10) days from the filing date for oppositions.

(d) If the Commission denies or dismisses all petitions to deny, if any are filed, and is otherwise satisfied that an applicant is qualified, a public notice will be issued announcing that the broadcast construction permit(s) or ITFS license(s) is ready to be granted, upon full payment of the balance of the winning bid(s). See 47 CFR 73.5003. Construction of broadcast stations or ITFS facilities shall not commence until the grant of such permit or license to the winning bidder.

[63 FR 48629, Sept. 11, 1998, as amended at 64 FR 24526, May 7, 1999; 67 FR 45375, July 9, 2002; 68 FR 26229, May 15, 2003]

§ 73.5007 Designated entity provisions.

(a) *New entrant bidding credit.* A winning bidder that qualifies as a “new entrant” may use a bidding credit to lower the cost of its winning bid on any broadcast construction permit. Any

winning bidder claiming new entrant status must have *de facto*, as well as *de jure*, control of the entity utilizing the bidding credit. A thirty-five (35) percent bidding credit will be given to a winning bidder if it, and/or any individual or entity with an attributable interest in the winning bidder, have no attributable interest in any other media of mass communications, as defined in § 73.5008. A twenty-five (25) percent bidding credit will be given to a winning bidder if it, and/or any individual or entity with an attributable interest in the winning bidder, have an attributable interest in no more than three mass media facilities. No bidding credit will be given if any of the commonly owned mass media facilities serve the same area as the proposed broadcast or secondary broadcast station, or if the winning bidder, and/or any individual or entity with an attributable interest in the winning bidder, have attributable interests in more than three mass media facilities. Attributable interests held by a winning bidder in existing low power television, television translator or FM translator facilities will not be counted among the bidder’s other mass media interests in determining eligibility for a bidding credit.

(b) The new entrant bidding credit is not available to a winning bidder if it, and/or any individual or entity with an attributable interest in the winning bidder, have an attributable interest in any existing media of mass communications in the same area as the proposed broadcast or secondary broadcast facility.

(1) Any existing media of mass communications will be considered in the “same area” as a proposed broadcast or secondary broadcast facility if the relevant defined service areas of the existing mass media facilities partially overlap, or are partially overlapped by, the proposed broadcast or secondary broadcast facility’s relevant contour.

(2) For purposes of determining whether any existing media of mass communications is in the “same area” as a proposed broadcast or secondary broadcast facility, the relevant defined service areas of the existing mass media facilities shall be as follows: